IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 564 OF 2005

IN

COMPANY PETITION NO. 8 OF 2004

M/S SANSHA CONSTRUCTION,VASCO DA GAMA,GOA ....Applicants

Versus

LA-JOY HOTELS PVT.LTD., AND 3 ORS., ...Respondents

Mr. S. S. Kantak, Advocate for the applicant.

Mr. N. Sardessai, Advocate for the respondents No.1 to 3.

Mr. A. D. Bhobe, Advocate for the respondent No.4.

Coram:- R. M. LODHA, J.

Date:- 2nd September, 2005

P.C.

This application is made by M/s. Sansha Construction. It is prayed by the applicant that it be impleaded as party respondent in the company petition. According to the applicant, it is engaged in real estate development and construction business. The applicant claims that the property surveyed under No. 20/8 admeasuring 4760 sq. metres was agreed to be sold by the respondents No.2 and 3 to the applicant by Memorandum of Understanding dated 21.8.2002. The consideration for sale was Rs.82,70,835/-. The applicant claims that the entire consideration under the agreement dated 21.8.2002 has been paid to the respondents No.2 and 3. The applicant also calims that by Deed of Sale dated 26.4.2005 registered on 10.05.05, the said property has been transferred absolutely in the name of the applicant.

2. The company petition has been filed by the petitioner seeking winding up of the company La-Joy Hotels Pvt. Ltd. Inter alia, in company petition, the petitioner has prayed for interim relief for restraining the second and the third respondents from, in any manner, dealing with, diposing of, parting with possession or creating any third party right in the property referred to above.

3. The learned Counsel for the petitioner and the learned Counsel for the respondents admitted that in so far as prayer for winding up of the respondent No.1-company is concerned, the applicant is neither a necessary nor a proper party and for that purpose, the applicant is not required to be heard. However, the learned Counsel for the petitioner conceded, in my view, rightly that as regards prayer for interim relief as set out in prayer clause (d), the applicant may have to be heard by the Court.

4. The learned Counsel for the applicant also admitted that the applicant's interest is limited to the interim prayer made in clause (d) of the prayers.

5. Taking overall facts and circumstances of the case, I am satisfied that it is not necessary to implead the applicant as party respondent. However, in the event the Court is inclined to consider the petitioner's prayer for interim relief, no order shall be passed without hearing the applicant.

Miscellaneous Civil Application is disposed of accordingly.

R. M. LODHA, J.